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Canada. Capital and Corporal Punishment and
Lotteries, Joint Committee of the Senate and
the House of Commons on
ND SESSION—TWENTY-SECOND PARLIAMENT

1955



Joint Committee of the Senate and the House of Commons

ON

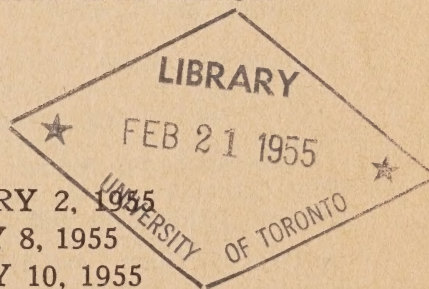
CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

WEDNESDAY, FEBRUARY 2, 1955
TUESDAY, FEBRUARY 8, 1955
THURSDAY, FEBRUARY 10, 1955



WITNESS:

Dr. J. P. S. Cathcart, M.C., Ottawa, Ontario.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

NOTE: The present inquiry on Capital and Corporal Punishment and Lotteries is a continuation of the inquiry initiated during the previous session of Parliament.

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine	Hon. Nancy Hodges
Hon. Paul Henri Bouffard	Hon. John A. McDonald
Hon. John W. de B. Farris	Hon. Arthur W. Roebuck
Hon. Muriel McQueen Fergusson	Hon. Clarence Joseph Veniot
Hon. Salter A. Hayden	Hon. Thomas Vien

(Joint Chairman)

For the House of Commons (17)

Miss Sybil Bennett	Mr. R. W. Mitchell
Mr. Maurice Boisvert	Mr. G. W. Montgomery
Mr. J. E. Brown	Mr. H. J. Murphy
Mr. Don. F. Brown <i>(Joint Chairman)</i>	Mr. F. D. Shaw
Mr. A. J. P. Cameron	Mrs. Ann Shipley
Mr. F. T. Fairey	Mr. Ross Thatcher
Hon. Stuart S. Garson	Mr. Phillippe Valois
Mr. Yves Leduc	Mr. H. E. Winch
Mr. A. R. Lusby	

A. Small,
Clerk of the Committee.

CORRIGENDUM (*English Edition only*)

Minutes of Proceedings and Evidence, No. 17, dated June 1, 1954, of the Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries.

On Page 667 (lines 7 and 8):

After the word *penalty*, DELETE the words "you find Colombia and Puerto Rico with 16 and 14 respectively per and Wales at the bottom with a rate of .5." and SUBSTITUTE the words "state, with a homicide rate of 44.3 per 100,000 population, and England and Wales at the bottom with a rate of .5."

ORDERS OF REFERENCE

Extracts from the Minutes of the Proceedings of the Senate of Canada:

TUESDAY, 25th January, 1955.

The Order of the Day being called for the consideration of a Message from the House of Commons regarding the appointing of a Joint Committee of both Houses of Parliament to inquire into and report upon the question whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent.

After debate, and—

With leave of the Senate, the Honourable Senator Macdonald, P.C., moved—

That the Senate do unite with the House of Commons in the appointment of a Joint Committee of both Houses of Parliament to inquire into and report upon the questions whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries, should be amended in any respect, and, if so, in what manner and to what extent.

That the following Senators be appointed on behalf of the Senate on the said Joint Committee, namely, the Honourable Senators Aseltine, Bouffard, Farris, Fergusson, Hayden, Hodges, McDonald, Roebuck, Veniot and Vien.

That the Committee have power to appoint, from among its members, such subcommittees as may be deemed advisable or necessary.

That the minutes of the proceedings and the evidence of the Special Committee appointed last session to inquire into and report upon the foregoing questions, together with all papers and records laid before it, be referred to the said Committee.

That the Committee have power to print such papers and evidence from day to day as may be ordered by the Committee for the use of the Committee and of Parliament.

That the Committee have power to send for persons, papers and records; to sit while the Senate is sitting and to report to the Senate from time to time.

That the Committee have power to engage the services of counsel.

That a message be sent to the House of Commons to inform that House accordingly.

Said motion was resolved in the affirmative.

TUESDAY, 1st February, 1955.

With leave of the Senate, and—

On motion of the Honourable Senator Macdonald, P.C., it was—

Ordered, That the resolution of the Senate adopted on the 25th of January, 1955, respecting the Joint Committee of both Houses of Parliament to inquire into and report upon the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries, be amended by adding thereto the following paragraph:—

“That the quorum of the said Committee be nine members thereof.”

That a Message be sent to the House of Commons to inform that House accordingly.

Attest.

L. C. MOYER,
Clerk of the Senate.

JOINT COMMITTEE

HOUSE OF COMMONS

FRIDAY, January 14, 1955.

Resolved, that a Joint Committee of both Houses of Parliament be appointed to inquire into and report upon the questions whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent;

That 17 Members of the House of Commons, to be designated by the House at a later date, be Members of the Joint Committee on the part of this House; that the quorum of the said Committee be nine members thereof; and that Standing Order 65 of the House of Commons be suspended in relation thereto;

That the Committee have power to appoint, from among its members, such subcommittees as may be deemed advisable or necessary; to call for persons, papers and records; to sit while the House is sitting and to report from time to time;

That the minutes of the proceedings and the evidence of the Special Committee appointed last session to inquire into and report upon the foregoing questions, together with all papers and records laid before it, be referred to the said committee;

That the Committee have power to print such papers and evidence from day to day as may be ordered by the Committee for the use of the Committee and of Parliament, and that Standing Order 64 of the House of Commons be suspended in relation thereto;

That the Committee have power to engage the services of Counsel;

And that a message be sent to the Senate requesting that House to unite with this House for the above purpose and to select, if the Senate deems advisable, some of its members to act on the proposed Joint Committee.

WEDNESDAY, January 26, 1955.

Ordered,—That Miss Bennett, Messrs. Boisvert, Brown (*Essex West*), Brown (*Brantford*), Cameron, (*High Park*), Fairey, Garson, Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shaw, Mrs. Shipley and Messrs. Thatcher, Valois and Winch act on behalf of this House on the Joint Committee of both Houses of Parliament appointed January 14, 1955 to inquire into and report upon the questions whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

WEDNESDAY, February 2, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 10.30 a.m. for organization purposes.

Present:

The Senate: The Honourable Senators Fergusson, Hodges, McDonald, and Veniot.—(4).

The House of Commons: Messrs. Boisvert, Brown (Brantford), Brown (Essex West), Cameron (High Park), Fairey, Leduc (Verdun), Lusby, Mitchell (London), Montgomery, Mrs. Shipley, Messrs. Thatcher, and Winch.—(12).

On motion of the Honourable Senator Hodges, seconded by the Honourable Senator McDonald, the Honourable Senator Hayden was elected Joint Chairman representing the Senate.

On motion of Mr. Cameron (High Park), seconded by Mr. Lusby, Mr. Brown (Essex West) was elected Joint Chairman representing the House of Commons.

The Joint Chairman, Mr. Don. F. Brown, took the Chair.

On motion of the Honourable Senator Veniot, seconded by the Honourable Senator Fergusson, the Honourable Senator McDonald was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

The presiding chairman expressed his appreciation for the honour again conferred on him and commented briefly on the tasks remaining ahead. On behalf of the Committee, he also welcomed those members not on last session's corresponding Committee.

On motion of Mr. Mitchell (London), seconded by Mr. Montgomery,

Resolved—That the title of the Committee be "Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries".

On motion of Mr. Fairey, seconded by Mr. Winch,

Ordered—That, pursuant to the Orders of Reference, the Committee print, from day to day, 1,000 copies in English and 300 copies in French of its Minutes of Proceedings and Evidence.

On motion of Mrs. Shipley, seconded by the Honourable Senator McDonald,

Resolved—That a Subcommittee on Agenda and Procedure be appointed, comprised of the Joint Chairmen and five members to be named by them from time to time, with power to arrange the schedule of witnesses.

The presiding chairman informed the Committee that the tentative membership of the subcommittee, in addition to the Joint Chairmen, would be: The Honourable Senator McDonald, The Honourable Stuart S. Garson, Mrs. Shipley, Messrs. Montgomery, and Winch.

On motion of the Honourable Senator Veniot, seconded by Mrs. Shipley,

Ordered—That, effective immediately, the services of D. G. Blair, Barrister and Solicitor of Ottawa, be retained as Counsel to the Committee under the same terms as approved by the corresponding Committee during the last session.

On motion of the Honourable Senator Fergusson, seconded by Mrs. Shipley,

Resolved—That the Orders of Reference with respect to the quorum be interpreted to mean “nine members, provided both Houses are represented”.

The presiding chairman notified members of the subcommittee present to meet at 4.00 p.m. this day.

The Committee adjourned to the call of the Chair.

TUESDAY, February 8, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hodges, and McDonald.—(5).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Lusby, Mitchell (*London*), Montgomery, Shaw, Shipley (Mrs.), Thatcher, Valois, and Winch.—(14).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

Due to the unavoidable absence of the Joint Chairman representing the Senate, it was agreed that the Honourable Senator Hodges assume his Chair.

The presiding chairman presented the First Report of the Subcommittee on Agenda and Procedure, which was read by the Clerk of the Committee. The said report was considered and adopted item by item, and is as follows:

Your Subcommittee on Agenda and Procedure met on February 2nd, 3rd, and 7th, and has agreed to present the following as its

FIRST REPORT

Your subcommittee recommends:

1. That, so far as practible, there be two sittings weekly of the Committee to be held on either Tuesday mornings, Wednesday afternoons, or Thursday mornings or afternoons.

2. That, in respect of briefs submitted

- (a) by witnesses scheduled to be heard by the Committee, copies be distributed to members of the Committee and the Press Gallery in advance of the hearing if possible, provided that no release shall be made until witnesses concerned have been heard thereon by the Committee; and that such briefs, where practicable, be taken as read and printed in the evidence immediately preceding the hearing of the witness thereon;
- (b) where no witness will appear before the Committee, copies be distributed, as soon as possible after selection by the subcommittee, to members of the Committee and the Press Gallery, and printed as appendices to the Minutes of Proceedings and Evidence.

3. That no group, affiliated with a national organization which has made or will be making representations, be heard unless the group states that it dissents from or will supplement the views of the national organization.

4. That travelling expenses and *per diem* allowances be paid only to witnesses appearing at the specific request of the Committee.

5. That reports of this subcommittee be distributed to members of the Press Gallery after presentation to the Committee, and that the Press Gallery be given advance notice, if possible, of witnesses scheduled to appear before the Committee.

6. That the reprint from *The Canadian Bar Review* containing the Symposium of Open Forum on Capital Punishment, ordered by last session's corresponding Committee and received during the recess, be distributed to members of the Committee.

7. That the Clerk of the Committee classify and acknowledge all miscellaneous representations, including any received during the recess, for report to the subcommittee from time to time.

8. That the Clerk of the Committee arrange to have bound immediately for the use of the Committee thirty sets in English and six sets in French of the Minutes of Proceedings and Evidence of last session's corresponding Committee.

9. That the summaries presented by Counsel to the Committee on June 15, 1954, to last session's corresponding Committee be mimeographed and distributed for the use of Committee members as soon as the revisions made by the subcommittee have been incorporated therein.

10. That the question of hearing the executioner be decided by the main Committee.

11. That the question of appointing a subcommittee or, alternatively, retaining a trained investigator to obtain evidence for the Committee on the deterrent value and other effects of corporal punishment on persons undergoing and who have undergone sentences of corporal punishment be decided by the main Committee.

12. That, should the Committee decide to recommend retention of capital punishment, the question of appointing a subcommittee or, alternatively of authorizing special inquiries to obtain evidence for the Committee from the United States of America on alternative methods of execution be decided by the main Committee.

13. That copies of two letters originated on January 17, 1955, by Mr. W. E. Wilby and Professor E. K. Nelson of the University of British Columbia, respecting a research project on capital punishment in Canada, be referred to the Department of Justice for future consideration.

All of which is respectfully submitted.

With reference to item 10 of the foregoing report, Mr. Winch moved, seconded by Mr. Lusby, that the question of hearing the executioner be considered and decided now. After discussion thereon, the said motion was negatived. (*Yeas*, 8; *Nays*, 9).

With further reference to item 10 of the said report, on motion of the Honourable Senator McDonald, seconded by Mr. Boisvert, it was resolved that the Subcommittee on Agenda and Procedure reconsider the question of a hearing for the executioner for the purpose of naming a date on which the Committee is to consider and decide the said question.

Following a discussion respecting item 11 of the said report, it was moved by Mr. Valois, seconded by Mr. Montgomery, that this Committee obtain

evidence as to the deterrent value and other effects of corporal punishment from persons undergoing and who have undergone such punishment. After discussion on the said motion, it was resolved in the affirmative. (*Yeas*, 10; *Nays*, 6).

With further reference to item 11 of the said report, on motion of Mr. Winch, seconded by Mr. Fairey, it was resolved that the Subcommittee on Agenda and Procedure be instructed to make recommendations to the Committee as to the manner in which such evidence is to be obtained.

Following a discussion respecting item 12 of the said report, on motion of Mrs. Shipley, seconded by Mr. Boisvert, it was resolved that the Subcommittee on Agenda and Procedure be instructed to make recommendations to the Committee as to the manner in which evidence on alternative methods of execution is to be obtained.

The presiding chairman informed the Committee of witnesses scheduled to be heard on the 10th, 22nd, and 24th of February.

The Committee continued its proceedings *in camera*.

At 12.50 p.m., the Committee adjourned to meet again as scheduled.

THURSDAY, February 10, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 4.00 p.m. Mr. Don F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hodges, Roebuck, and Veniot—(6).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Leduc (*Verdun*), Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shaw, and Valois—(12).

In attendance: Dr. J. P. S. Cathcart, M.C., of Ottawa; Mr. D. G. Blair, Counsel to the Committee.

On motion of the Honourable Senator Fergusson, seconded by the Honourable Senator Hodges, the Honourable Senator Farris was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

The presiding chairman presented the Second Report of the Subcommittee on Agenda and Procedure, copies of which had been distributed to each member present.

On motion of Mr. Montgomery, seconded by Mr. Brown (*Brantford*),

Resolved—That the said report, which is as follows, be adopted:—

Your Subcommittee on Agenda and Procedure met on February 9 and has agreed to present the following as its

SECOND REPORT

On February 8 your subcommittee was instructed to “reconsider the question of a hearing for the executioner for the purpose of naming a date on which the Committee is to consider and decide the said question”. Your subcommittee recommends thereon as follows: That

the Committee consider and decide the question of a hearing for the executioner at a meeting to be called for 11.00 a.m., Tuesday, February 15.

All of which is respectfully submitted.

Dr. Cathcart was called, introduced by the presiding chairman, and made an oral presentation on psychiatric aspects of capital punishment cases on which he was questioned by the Committee.

The presiding chairman expressed the Committee's appreciation to Dr. Cathcart for his presentation.

The witness retired.

At 5.50 p.m., the Committee adjourned to meet again as scheduled.

A. SMALL

Clerk of the Committee.

EVIDENCE

THURSDAY, February 10, 1955.
4:00 p.m.

The PRESIDING CHAIRMAN (Mr. Brown, Essex West): Senator Hayden is not able to be with us today so a motion will now be entertained to fill the chair for the day.

Hon. Mrs. FERGUSON: I move that Senator Farris be co-chairman.

The PRESIDING CHAIRMAN: All those in favour? Contrary?

Carried.

Senator Farris, will you please come forward.

Before proceeding with the witness may I ask you to refer to the report of the subcommittee on agenda and procedure which has been moved by Mr. Montgomery and seconded by Mr. Brown (*Brantford*). Would you like to have this read? What is your pleasure?

Mr. LEDUC (*Verdun*): Dispense!

The PRESIDING CHAIRMAN: All those in favour? Contrary?

Carried.

We therefore shall have a meeting next Tuesday, February 15, to consider and decide the question of a hearing for the executioner. We are going to decide at that meeting if we are to hear the executioner and it will be the committee as a whole which will make that decision.

Now we have with us today a very distinguished psychiatrist. I am not going to give you all his qualifications because they are rather lengthy, but I shall say that he is a graduate of the University of Toronto; that he has had a distinguished military career; that he was wounded and awarded the M.C. in 1917; that he was president of the medical board, No. 2 District Depot, with the Canadian Army, 1919-20; that he entered the Ontario hospital service in 1920; that he has been the chief neuro-psychiatrist of the D.S.C.R. or D.V.A. from 1924 to 1950; that he has been a private consultant in psychiatry and neurology since 1950; and that he has been a fellow of the American Psychiatric Association since 1933 and was certified by the Royal College of Canada, 1946.

If it be your pleasure I shall now call upon Dr. J. P. S. Cathcart who is going to make a presentation to us. Dr. Cathcart?

Dr. J. P. S. Cathcart, called:

The PRESIDING CHAIRMAN: We want you to feel that you are right at home, Dr. Cathcart, because this is a very informal gathering.

The WITNESS: I do feel at home, Mr. Chairman.

Mr. Chairman and members of the committee, I have no formal presentation to make, but I have given a little thought to what might be of interest to you. Perhaps I should start by saying something about the psychiatrist himself and his situation in regard to capital cases.

A modern psychiatrist is really a psychotherapist, not an alienist. Therefore so much of this work having to do with the examination of accused, that is, those accused of murder or any other special crime is, to a certain degree, foreign to him.

In the psychotherapeutic approach the attitude of the psychiatrist is one of being entirely sympathetic to his client and ready to accept a good part of what is told him. The object is that of enabling that individual to regain his health and sense of security and confidence.

That role is quite a different one in the case of a prisoner and I think most of my colleagues are very sensitive about that difference. Probably that will explain a good deal of what you see and hear in regard to the work of the psychiatrist in court. There again he is under an additional handicap of being somewhat straight-jacketed by the necessary court procedure.

He is allowed a good deal of leeway, but it does not, in any respect, match his methods from day to day. I have had the experience myself—perhaps because of being a poor witness—I have had the embarrassing experience myself in court of having stepped down from the witness box feeling that although I had sworn to tell the whole truth, I really had been left withholding a good deal of it, and not knowing what to do about it, and knowing that some of my evidence was probably not exactly what I intended to say.

As a result the majority of psychiatrists—at least so say my friends, who have discussed this situation with me—are rather loath to go to court. That is not generally known, but it is absolutely true.

A few are almost in the category of professional psychiatric witnesses, but they are very, very few. Fortunately court experience for any one of us is exceedingly limited, and therefore few of us attain competence in giving psychiatric evidence.

Obtaining information from the prisoner and examining him in the usual circumstances presents another awkward situation. I have seen prisoners in cells so cramped, that there was no room for me inside. A circumstance that precludes any possibility of privacy and in any case, creates difficulty in conducting a physical and neurological examination. On occasions I have had to sit just outside the bars of the cell, with the prisoner sitting on the end of his bed and his feet and hands on the bars, like a monkey in a cage.

My situation is just one mite better. I am given a table either inside or outside the cell as I make very extensive notes. The examination runs on the average to about:—

Usually I start about 10 or 10.30 a.m. and continue until finished. The prisoner has his lunch during which time the interview continues and the examination is not completed until I feel that all necessary information has been extracted; if not, I return next day but on no occasion has there been more than two sessions, as all my visits have been out of town cases, therefore, naturally, I do not remain for more than a couple of days.

These conditions are not conducive to good work, and while on the other hand the prisoner seems to be as a rule enjoying the presence of some sort of company it is not an easy task; it is a very unusual one for the psychiatrist. His usual facilities are lacking. For instance, in examining a patient in hospital a psychiatrist has the assistance of nurses and attendants and notes regarding the patient. He also has the great advantage of being able to see the patient every day or every other day or three times a day if necessary, so that he can get a composite picture; whereas in so many of these situations that composite picture is lacking, it is a matter of one visit. Even though that is done fairly thoroughly it is quite different from our usual method. Therefore, I always had a feeling that there was just something important lacking.

Now, in diagnosing mental conditions, or in merely interviewing and examining a prisoner who turns out to have no frank mental condition, the psychiatrist is without some other facilities. True the jail physician does

a Wasserman test but there are some other tests that are quite frequently needed; tests that would be very helpful and in some cases specifically required, notably psychological tests. I think probably when I mention psychological tests most of you think only in terms of mental deficiency, or in other words of an individual who is dull-witted and whose mental age is not up to the average. That is not now the common usage of psychological testing in the clinical psychiatric situation. Psychologists today function quite differently, true, in certain cases we have to use the intelligence tests, but that is rather uncommon in comparison to these other tests which include mostly projection tests.

Now, if it is not taking up too much time, I can give you a little example of projection tests. This is a sample of a projection test. There are about 20 cards here, or picture cards, with no titles. The titles are left off on purpose. The patient is handed this card. The card is turned down until it is handed to him and he is asked to make a story in relation to it. He makes his story which is entirely his own and very revealing. I am showing you one of the cards of the Thematic Apperception Test, usually abbreviated to T.A.T. This card is one that would prompt a story in an individual with a large guilt complex.

Here is another projection test, The Rorschach Test; also a series of cards and as you see from their appearance, they are more commonly spoken of as an ink blot test, and that was the way they were first made, in the way that I am illustrating, and the result is a symmetrical but accidental design, leaving a large opportunity for individual interpretation. The client is invited to describe what he sees and often he mentions animals, birds, insects, etc., sometimes special and significant activities, as you will see, some of the cards are coloured or partially coloured. Some clients describe only the colour impressions and that of itself gives useful information. It has become quite a science, the use of these projection tests by fully trained and qualified psychologists.

Projection signifies that the individual projects himself into his interpretation of the picture on the card; he projects fairly accurately his inner feelings and experiences and you therefore avoid the errors of yes and no answers or evasive replies. The individual who has a very strong guilt complex, may not reply to this special card but his failure to do so, is of itself informative and certainly is if he turns it down abruptly. The psychiatrist then has a clue which can be further explored.

There are other useful psychological tests, sentence completion, is one of these. The sentences on the form being only partially completed and the individual is invited to write his own answers, so as to complete the sentence; which is then often significant information. Another useful test is of having the individual draw a picture of a man or a woman. Trained interpretation of these drawings is also informative.

May I give you an illustration of the value of these tests from a recent case under observation at a local hospital. The young fellow was admitted to the psychiatric ward, because of entertaining persecutory notions; he was under the impression that his fellow workers were slighting him, making innuendoes at him, saying things about him, etc. I had an interview with him shortly after admission and he further elaborated the above symptoms, to the extent that I regarded him as suffering from a paranoid type of schizophrenia. On my next visit, he seemed more friendly and off hand; soon he began to socialize with other patients and with the nurses and attendants. Finally after two weeks had passed he seemed to be quite well, though perhaps a little too reserved. He had developed good insight and understanding of his condition and how he became ill and acknowledged the falsity of his

symptoms. The resulting change in his family relations was also encouraging, to the extent that I promised to discharge him by a certain date. Unfortunately, the psychologist whom I had consulted was delayed in his examination and the tests were not completed until the day that I had promised discharge. Unfortunately, the tests all pointed distinctly to the existence of a paranoid schizophrenic trend and naturally I was embarrassed about keeping my promise, to let the patient return home.

However, there were also, some clear indications of the absence of any specific hostility or personality disorganization but my original diagnosis was sustained.

Seeing the patient from the clinical point of view, he no longer had suspicious or vindictive ideas towards anybody and he had become friendly and sociable. He had developed good insight and was able to see himself and his mistakes in judging other people and he seemed convinced of the necessity of avoiding any repetition, but these tests told another story; in fact the whole series of tests told much the same story; that of a paranoid persecutory trend, along with the schizophrenic deviation from reality. Fortunately, as I have said, there were some favourable items in the test findings, particularly the absence of definite signs of aggressive hostility. The favourable aspects reassured me that we could safely release him, in spite of his basic trend of "being against", so we released him and he expressed a willingness to have me follow up his case and he will see me from time to time during the next few months—or years. We cannot promise too much regarding the future of such cases, because the trend is usually, though not persistently a progressive one.

Many of these paranoid cases are much more malignant and recovery cannot be anticipated, though sometimes there is a sort of adjustment that they can make towards their home life and working conditions, but at the most, it is a rather precarious one. Probably the ultimate story in his case will not be a very good one.

Without these tests, I would have regarded this man as having made a good family recovery from a reactive paranoid condition, on the other hand, even if I had stuck to my original diagnosis of paranoid schizophrenia, I could not have been sure from a short period of hospitalization and clinical interviews, that he was not aggressively hostile and therefore might do harm to somebody.

Another point that I omitted to emphasize is that his paranoid projections did not seem to be against any one individual at all. That is a healthy sign, because if they happened to be directed toward one individual or organization it would not be so easy to release him, or we would be taking a risk in releasing him.

There are certain conditions requiring special consideration and special testing, murders in which the public might feel vindictive towards the accused. I refer to the brutal type of murderer. Now, this is a difficult story to talk about. I have the same feeling about these that you have, I am pretty sure of that, but my clinical experience teaches me to be a little cautious, because quite often these murderers are not motivated in the way that one would think and in some instances they are not motivated at all. It is just a blind urge that has no meaning whatever, and usually that is associated with some phases or chronic epilepsy.

Now, some of these cases of chronic epilepsy might be called surgical epilepsy because they relate to certain parts of the brain, the temporal lobe and to a lesser extent the frontal lobes of the brain. In these cases the tendency is towards marked explosiveness, particularly when mixed with alcohol, and they just go berserk. In this small percentage of surgical cases

you may find a tumour in the temporal lobe, or some original damage there, probably from birth. I am always on the alert when I have to see a case like that. Now, examining a man of that type in jail all by yourself with no facilities at all to aid you and dependent entirely on the history as he gives it and as you can obtain it from other sources, is at best not very adequate. With the type of case I have in mind, I think that in future we will have to insist on electro-encephalograms in order to be absolutely sure that there is not some likelihood of complete suspension of conscious control. That is what happens in some of these cases: a complete cessation of conscious control; and they become in varying degrees just automatons. A classical example of an automaton in the extreme would be a chicken with its head off. It is still capable of running around in a circle at least and doing so for a considerable time. That would be an extreme case. Sometimes in these epileptic automatic states they do things, commit crimes, that show a certain amount of ingenuity. True, if you know all the aspects of them, you would see something that was not the product of consciousness, but you have not all the evidence and therefore in those cases at least I think that in future we should hope to have electro-encephalograms.

Hon. Mrs. HODGES: Could I interrupt here to ask you for the spelling

The WITNESS: "Electro-encephalogram." That is available in many centres nowadays. We have one at the Civic Hospital, and that is the only one in Ottawa. There is one in Kingston and there are several in Montreal, notably in the Montreal Neurological Institute, and there are some in Toronto. An encephalogram is made by using an encephalographic machine that magnifies certain very minute currents that come in through wire leads attached to specific areas of the scalp, usually on each side, that is, six altogether. You can, however, have many more leads if you have an instrument to take care of that many. The patient lies down preferably without having had any breakfast. He is quite at ease. There is no sensation about it at all. The wire leads go to the machine and carry these minute currents on what they call micro-volts, a thousand-thousandths of a volt, and they magnify them so they write on moving paper about so wide which passes over like this. All of the six needles are writing at once and they record what we call brain waves. The word "brain waves" is used in a slang way but actually they are called that. The form of these waves is important, as well as their height, or what we call amplitude which indicates the strength of the minute current from this area of the brain. Those waves with considerable amplitude are very suspicious, particularly if they occur in what we call bursts. A burst is a whole series of waves close together in a fast tempo, so fast that they look like spikes on the chart.

That sort of wave is extremely suspicious of an epileptic or epileptogenic process and if it occurs in all the leads on each side then it is the common form of epilepsy but if it occurs only in one or two leads and both on the same side then it is very likely a focal type or local type of epilepsy and frequently that turns out to be surgical. The approach to that is by surgical removal of the tumor or other damage to that part of the brain.

Where abnormal brain waves occur on both sides and in most of the three leads on each side and when they are what is called synchronous or occurring at practically the same time and with the same amplitude, that is the common record of ordinary epilepsy even during the quiet stage when a person is not having a seizure at all. Still, that is not conclusive proof. Suppose you prove the patient is an epileptic and you have the clinical evidence of it as well, that still does not prove that he is irresponsible or that he is not responsible for the crime he has committed. It does, however, help you to deal with the claim that the individual did not know what he was doing because

it is possibly true that he did not know in the face of this electroencephalographic evidence. All he knows is that something happens. He knows he was in a blind rage and something happened but he does not know anything from then on. You nearly have to concede that he may be telling the truth if you have that E.E.G. assistance. Otherwise, it looks like a cover-up story or an alibi, particularly if it is associated with alcohol.

Hon. Mr. GARSON: That is, if it is associated with alcohol it looks as if it is a true story and not a cover-up story?

The WITNESS: What I mean, Mr. Minister, is, that alcohol in association with chronic epilepsy often has an explosive effect.

Hon. Mr. GARSON: Yes. What I mean is if the defence proves that there was alcohol associated with this sort of epileptic condition or epileptic phenomenon that is more likely to account for his defence than if there were no alcohol?

The WITNESS: Yes, it would fit in with the trend of the defence.

The question of alcohol in relation to murder, is a very difficult one, from which I sometimes feel that it would be an advantage to pass on to someone else, because alcoholic automatism can often be made to appear real, yet it probably is not in most cases, even in the alleged "blackout" situation.

I tried to get some help regarding that question when I was attending the alcoholic research workshop at the International Congress in Toronto last summer in association with experts from all over the world who were dealing with research in alcohol. They could not give me much assistance concerning the blackouts in chronic alcoholism and that comes up fairly often as a plea. My own opinion is that the extreme degree of automatism does not occur in the blackouts. True, they may be honest in saying they have no recollection of what they did but unless it is in association with epilepsy or an old and serious injury to the brain I doubt very much whether an individual becomes an automaton in the real sense of the term, in that he goes berserk and completely out of control. That is my own personal opinion. I am at a loss to prove it and, as I say, I got no help when I asked the question at this conference last summer. The Toronto group are going to work on this problem and probably they will come up with some information.

Perhaps, Mr. Chairman, the committee would care to question me. I have a feeling that I have left out some part of my story and I know I have not quite covered everything.

The PRESIDING CHAIRMAN: If anything occurs to you, doctor, I am sure you will feel free to bring it up.

Would the members of the committee care to submit questions at this point? If so, have you any, Mr. Farris?

By Hon. Mr. Farris:

Q. Doctor, I take it your object in being here and our object in having you come before us is to indicate to the committee the possible dangers of hanging a man who should not be hanged because of his mental condition. I have listened to your suggestions about the handicaps you have in these cramped spaces and the difficulties you encounter in not having more equipment with you. Then you went on to tell us about these violent cases indicating perhaps a tumor or some blackout condition in which you apply the electro-encephalogram. If there was any extreme condition of brutality revealed in a prisoner who committed murder and any other indication you would not have any trouble from the authorities in reporting to them that this is a case where you must have facilities for making your examination?—
A. No, I would not if I insisted on it, no.

Q. Well, if you are there to decide—A. But I am not always convinced myself.

Q. But if you feel there is a danger that a man may be convicted and hanged and he has a mental condition under which this should not be done, you would at once feel it your duty to tell the authorities that you ought to have the opportunity of making a full test, would you not?—A. Yes.

Q. And if these full tests were made, in most cases they would reveal the condition?—A. Yes, probably in 90 per cent of the cases the test is pretty reliable but you see, I visit prisoners in very out of the way places.

Q. In any case no matter how isolated, if you told the Attorney General what you are telling us here, before that man was tried and convicted, the chances are that facilities would be provided with which to make this proper examination.—A. Yes, I would say so. It is rather new, and I think that if that idea had been suggested five or six years ago, it would have been played-down somewhat.

Q. If counsel for the defence knew about this, he would raise a great row at the trial if it was not acceded to.—A. Well, sometimes counsel for the defence does not put up much of an effort.

The PRESIDING CHAIRMAN: Have you ever examined a person charged with murder?

The WITNESS: I have, but it was quite a few years ago.

Mr. BLAIR: That was before the trial?

The WITNESS: Yes, before the trial.

The PRESIDING CHAIRMAN: Not after the execution!

By Hon. Mrs. Hodges:

Q. Do you think it would be a good thing to consider the establishment of facilities in every province, at some more or less central point where you could conduct all the psychiatric examinations?—A. That would simplify the problem a lot. In some provinces, notably in Alberta, they seem to do that. In nearly every case that I have seen, they seem to have done that. In Manitoba, sometimes. I am not sure about the other provinces.

Q. British Columbia has pretty good facilities.—A. I do not know about the Maritime provinces.

Q. As I say, British Columbia has pretty good facilities, I believe.—A. I believe so.

Mr. FAIREY: But that is done in the Crease Clinic, which is not normally used.

The WITNESS: I have seen individuals at Oakalla who have not been through it.

Hon. Mrs. HODGES: No, but they do have the facilities handy which could be utilized if it was made requisite for treatment of prisoners in the penitentiary.

The WITNESS: I am not sure that I would go quite so far as saying that all individuals charged with murder should be psychiatrically examined. That may come about in a few years; but there are some, such as the acquisitive murder type, or the armed robbery which turns into murder. And now that syphilis of the nervous system is no more, that individual is rarely a psychiatric problem.

Hon. Mr. GARSON: What is that?

The WITNESS: The armed robbery murderer. From the type of cases I have been asked to see my impression is that the Department of Justice has already screened out that type and I never see them. I only read about them in the papers.

By Hon. Mrs. Hodges:

Q. What kind of cases are you called in to see? Is it any particular offence or only those that the prison officials ask you to see?—A. I just see those—in the last few years—that the Department of Justice, Remission Service, asks me to see.

Q. You mean just in connection with the Remission Service?—A. Yes, murder cases.

Hon. Mr. GARSON: Those would be cases after the man has been convicted, but before he is hanged.

Hon. Mrs. HODGES: I understand.

Hon. Mr. FARRIS: In that case all those facilities would be made available, I take it?

The WITNESS: They would be, but at great inconvenience in certain places.

Hon. Mr. GARSON: A man pending his execution is not held in a penitentiary. He is held in the provincial jail of the county in which he is to be executed. I think that is what the doctor is referring to. It may be an inconvenience there.

Hon. Mr. FARRIS: From the suggestions we have had here we might as well see that done.

By Mr. Shaw:

Q. I would like to ask Dr. Cathcart if he sees any merit or virtue in the suggestion made to this committee that a permanent board of psychiatrists be set up, not employees of the defence, as it were, or of the Crown, but operating as a separate and independent body to examine persons convicted of capital crimes. Do you see any merit in that suggestion?—A. I see great merit, and we psychiatrists have argued that out amongst ourselves, but we realize such an arrangement, regardless of how independent and competent the board might be, might deprive the accused or condemned of some right—and in the case of the former it would run counter to the principles of court procedure.

Q. Yes.

By Mr. Leduc (Verdun):

Q. When a section of our Criminal Code provides for corporal punishment, do you think it would be advisable to give to the judge the power to order a medical examination by a psychiatrist before rendering his sentence?—A. I have not given any thought to that. That is on corporal punishment; I have not given any thought to that because I do not contact that.

Your question is quite valid from a professional point of view and I can see—at least it would build up experience for the courts in dealing with that type of case in which they would ordinarily order corporal punishment. It would be an embarrassment to a psychiatrist, I think, to advise a judge on that point. But as a physician, yes; from the point of view of ability to undergo punishment, yes.

Q. Would it be the same thing in a case of murder, if the right is given to an accused before the hearing of his case to have a medical examination by an approved psychiatrist?—A. Yes; I am not sure what the whole meaning of your question is.

Q. My question is this: is it in order to give the accused the right of having a medical examination before the hearing of his case in order to prepare his defence?—A. A psychiatric medical examination?

Q. Yes.—A. Well, I think there would be merit in that because I am sure I see some cases for the Department of Justice where the transcript of evidence, after we have read it, indicates that they should have had an opportunity to have a psychiatrist present his views in court about the case. Yes, I see those.

The PRESIDING CHAIRMAN: I asked you a moment ago if you had examined any person charged with murder and you said that you had not for many years. Do you mean that you have not given evidence in court for many years, or that you had not made any examination?

The WITNESS: It happens to be the same thing. The only murder case in which I ever gave evidence in court was a case which I examined and that was many years ago. Of course, I have given evidence in court since then but not in a murder case.

By the Presiding Chairman:

Q. Your experience then has been on remissions?—A. Almost entirely.

Q. They are persons charged with lesser offences?—A. In court regarding persons charged with lesser offences.

By Mr. Blair:

Q. Just to clarify the position, Mr. Chairman, your experience in connection with murderers in recent years has been in your examination of them after conviction in connection with commutation proceedings.—A. In recent years it has all been in that type of case. I saw a chap named Lanoie in Petawawa and gave evidence in court regarding him. That would probably be four years ago.

Q. Could you perhaps tell the committee how many people convicted of murder you have had occasion to examine in recent years?—A. Probably 25.

Q. Have you been able as a result of examining these 25 people to form conclusions as to the type of the person who commits a murder and who is convicted of the offence of murder?—A. Yes. Probably first of all I should say something about the way the cases come to me in the first instance. There is the transcript of evidence which I am asked to review and then perhaps I see the man. This transcript of evidence has already been screened by the remission service and the more I see of this screening the more I think that they do a pretty good job. It is true that they ask me to review some which after examination, prove to be cases which are not mental unless one uses an extremely broad interpretation—but I have not dealt with one in which there has not been good reason for asking me to review the case. Usually it is a type of case in which the motive is very obscure or one that is almost motiveless. Then, there is this other type of very brutal murder which I have mentioned where there is something that puzzles the reviewers of the evidence, regarding the state of the man's mind. There is already a quite careful screening before I see any evidence at all. I may have a phone call sometime mentioning certain aspects of the case and we will have a discussion about it. Then I will say, perhaps I had better see the transcript of evidence or at least the summary of it. However, I see very few cases in which there is a frank psychosis, where the individual is suffering from hallucinations and delusions. I see very few of those. I think I have only seen one and it was very difficult to be sure that he was hallucinated. In my own mind I have a feeling he was; but, a very capable psychiatrist whom I know very well and respect highly did not think so. You see this is not an exact science; I am not trying to push that idea over at all. We are dealing with intangibles and impressions and interpretations. It is quite different from any other speciality, e.g., neurology, where you have pretty objective things in front of you.

By Mr. Fairey:

Q. When you are examining the transcript of evidence do you also see the accused himself or the condemned?—A. Not always. Probably 25 per cent of them.

Q. All you are asked to give an opinion upon is what is in the evidence and not what you find out from the person himself who is being examined?—A. Yes, but if the evidence is such that I feel within my own opinion that I or someone else should see that man, then I ask the remission service and they never refuse me. I can say that, one hundred per cent, I get the approval of the minister almost automatically in that case.

By the Hon. Mr. Farris:

Q. In the case of any of the men who have been examined by you in a murder case has the sentence been changed?—A. Yes. However, I cannot give you particular information on that as I do not follow the case through that far. The honourable Minister of Justice explained at one of the previous sessions the whole follow-through in these cases. I am not familiar with that. I do not know the ending unless I happen to see it in the papers.

Hon. Mr. GARSON: We can easily obtain that for the committee; the number who are sentenced in the first place and the number where sentences are commuted. It would be away less than 50 per cent.

The WITNESS: Yes. I think it would probably not be much more than 30 per cent if it is that.

Hon. Mr. GARSON: The remissions branch raise this question as laymen in respect of any set of dispositions in a case where there is any indication at all of mental aberration and these go to the doctor. Some of them are so plainly not a case of that sort that it is not necessary to see the man at all, but in other cases he wishes to see the man and he does.

By Mr. Blair:

Q. The point which I wished to have cleared up is that Dr. Cathcart has referred to him only a certain percentage of the remission cases. Doctor, these are referred to you because there is some doubt as to sanity or mental condition, using that phrase widely, and in only a certain percentage of those cases do you find that the convicted murderer has a borderline mental condition?—A. Yes. I do not think those cases would be more than 30 per cent.

Q. At the previous sittings of this committee it was strongly pressed on the members of the committee that murderers as a group are mentally sick. We have heard words like psychopath and other technical terms to describe them. Perhaps it would help the committee if you were to comment on this expression of opinion?—A. In passing, a few remarks ago, I said in most of the cases you would have to use a very broad stretch of imagination to think in terms of a mental case. But I do see background situations in taking the history—almost a 100 per cent background—which make me feel sorry for the poor devil. That probably will give you a good idea. But I try not to let that influence me.

Mr. VALOIS: Dr. Cathcart, may I ask you one question? I was not here at the start so the point may have been covered. It seems that I could say that as a witness you do not feel that it is a very happy experience being in court and that you feel sometimes you are not saying all that you know, and also that the investigations sometimes are made under not very favourable conditions. But I think that the first point I would like to see covered is this. I would like to ask the Minister of Justice to correct me if I am wrong, but I understand that under the Criminal Code the line of insanity was drawn at a

point where a man could not be found guilty if he could not differentiate between right and wrong. As an expert in your field, are you satisfied that this line is drawn in the right place? I am asking you that because I have had experience with a case of a sexually abnormal man. There was a doctor there, an expert who claimed that, though the man did not know that what he was doing was wrong, he had impulses that he could not control. Of course, according to the way the section stands, because it was agreed that he had the knowledge that what he was doing was wrong, he had to be found guilty.

The WITNESS: The difference between right and wrong comes up mostly in relation to mental deficiency. The individual has not the wits to realize clearly the difference between right and wrong. That is not very common. I get very few of those cases; I am sure that I could count on the fingers of this hand those where there has been a question of mental deficiency to the extent that they did not know right from wrong. Now, you were speaking of a case of sexual deviation. Compulsive features do enter into that, but they are mostly of the type of compulsion that is regarded as neurotic and not psychotic. That is, the man knows right from wrong, there is no question about that at all, and he has his inhibitions, his code of conduct acting as inhibitions. Every psychiatrist with any kind of practice at all has at least five or six, and sometimes I have at a time a dozen people who have strong compulsions. I had one man in yesterday evening who has been disturbed for some time. He is getting better, but he is still at times disturbed because he feels the urge to murder his wife and son, the son whom he adores, but the back of whose head is shaped exactly like that of his father-in-law. He therefore hates him too, but he is not going to murder them, and I know that.

By Hon. Mrs. Hodges:

Q. That is neurotic?—A. Neurotic, not psychotic. There are no psychotic elements in his case at all. I feel quite confident about him, in regard to being a menace, but uncomfortable because he still is distressed. The degree of his distress is an index of the very strong inhibitions.

Q. Do you not feel that he is likely to give way to that impulse at some time?—A. Not at all.

By Mr. Shaw:

Q. I would like to ask Doctor Cathcart whether or not in his opinion the murderers whom he has seen are capable of being deterred by the threat of capital punishment.—A. No, I would say that 100 per cent of them have not given it a thought until afterwards, of those that I see after they have been screened in the way that I indicated.

Q. They would not be deterred by the knowledge that death was the penalty?—A. Not at all.

Hon. Mr. FARRIS: Would they be deterred by the thought of life imprisonment?

The WITNESS: No, I do not think that there is much thought of that. Punishment does not seem to figure in their thinking prior to the act.

Hon. Mr. GARSON: Could it be deterred by anything?

The PRESIDING CHAIRMAN: By force?

The WITNESS: Perhaps not, in a way. Yet in my preliminary remarks I was going to say something about a situation that you will probably hear nothing about, that is the potential murderer, the man that could have murdered. We are dealing with those every day. In our little seven-bed psychiatric ward we had two that could have murdered, because they attempted murder and were sent to the psychiatric ward because even the police seemed

to think that there was something funny about them. Of these two cases, it turned out that one man had previously been in our hospital some seven years ago. At that time we did not know his previous history, which was that he had attempted to murder a man in Hull in 1936, when he pointed a loaded gun at the man and it did not go off. He got a year for that and was released. When we had him some seven years later, we did not know this previous history, and we suspected that he was a schizophrenic but not in any danger of harming anyone. So we released him and he was back again last January at the same time this other man was in hospital. This time he had stabbed somebody, evidently with murderous intent. The other man was setting fire to his brother's barn and at the same time was armed and was making threats, but the police put in a judicious hand and corralled him, as they did the other man, and so no further harm was done. As a matter of fact, I think that last year we had in this little seven-bed ward here some six cases that could have been murders. I do not say that that is the usual number, but it will give you a little idea of how frequently attempts at murder that come up just like that, are covered up, and properly so, by admission to mental hospitals, where they are easily found to be mentally ill. It is not always easy and in the case of these two men, one feature stood out, they presented no problem to us at all during their stay in the ward. They were just as meek as mice. That co-operative meekness is characteristic also, of many of the murderers I have seen in jail or hospital. Rarely do they cause trouble or disturbance, usually they are quiet, co-operative and relatively friendly and one may have to spend a good deal of time and dig pretty deeply to get out the delusions if present. Do not get the idea that the condemned man or the man awaiting trial, throws delusions at you. That would be very unusual.

By Mr. Fahey:

Q. Doctor, may I ask you a question? I wish to follow up the question by Mr. Shaw when he asked you to give a definite opinion as to the deterrent effect of the threat of the death penalty. It is not considered that it acts as a deterrent?—A. In the cases I have seen, No.

Q. And then someone—perhaps the minister or the Honourable Senator Farris—asked you if life imprisonment acted as a deterrent and you said no. Do we conclude from that that in your opinion no form of punishment would act as a deterrent in those cases? Or rather, no threat of any form of punishment, shall I say?—A. I have a feeling that the retribution aspects of it do not come up until afterwards.

Q. What I am leading into, of course, is this: would you say that is true of all forms of punishment for all forms of crime?—A. I would be well out of my field if I answered that question.

Q. The thing which has always disturbed me concerning the question of a deterrent is that for a minor crime of a child stealing, we believe that smacking his hand is a deterrent?—A. Yes, if it is quickly applied to a child.

Q. Now then, the only form of punishment where you can claim it does not act as a deterrent is for the crime of murder?—A. No, it just happens we are dealing with that at the moment, and I have not had too much experience in relation to ordinary crimes.

By Hon. Mrs. Hodges:

Q. I would like to ask the doctor to go even further. Does he think the threat of capital punishment deters a great many other people who do not commit crimes and thereby do not get into the news? To me the question of a deterrent means how many people does the threat of a certain punishment keep from committing a crime. Does the doctor think that the average person

in the street is deterred from committing crime by his knowledge of the sentence of capital punishment? Do you think the threat of the death penalty is a deterrent to many people?—A. Well, I would find it very difficult to believe that these armed robberies which develop by accident into situations of murder—I would find it difficult to believe that they overlook the penalty; in fact, I remember the time when the Capone gang was breaking up, or before that in Montreal, it was the common story that there were lots of them there, coming over and hiding out but leaving their guns at home because they were in Canada.

Q. And were afraid of the death penalty?—A. And in Quebec—

Q. You are meaning to imply that they probably desisted from carrying guns because they were afraid of the death penalty? That is the inference?—

A. Yes, that was the inference, and I think it is relatively true.

By Hon. Mr. Garson:

Q. Is it not your difficulty and the difficulty of any witness answering a question as to whether those who have committed murder were deterred by the death penalty simply this: that the fact that they committed murder is a proof that they were not deterred except in cases where they were ignorant of the sentence of capital punishment. As the British commission reported, no one knows of the people who were deterred by capital punishment because they never committed the crime, and therefore did not become a statistic. Would you disagree with that?—A. Not at all.

Hon. Mr. FARRIS: There is another limitation. You are only able to deal with cases where there is a mental condition. Your experience does not deal with murders where there is no suggestion of a mental condition?

The WITNESS: Yes.

Mr. FAIREY: Perhaps it is not relevant but I was going to follow along with what the minister said. We have had so many expressions of opinion from witnesses here that the threat of capital punishment does not act as a deterrent and it has been based upon the cases of persons who have been condemned.

Hon. Mr. GARSON: That all comes out in the British commission, and it seems to me to be a matter of ordinary common sense. How are you going to tell how many people were deterred by capital punishment or corporal punishment if they have never committed a crime? They do not tell other people that they were contemplating it.

Hon. Mrs. HODGES: That is right.

The PRESIDING CHAIRMAN: Any further questions?

By Mr. Montgomery:

Q. From your experience do you think there is any way of screening people before trial who have committed capital or serious offences? Is there any type of persons who should be examined by psychiatrists?—A. I am not sure about types.

Q. I mean in cases where it looks like premeditated murder. You have cases where they have thought it all out, you have holdups and then you have the group which comprises individuals who just seem to go into a rage and do something. Have you any way of classifying them?—A. You do have hold of something but it is not 100 per cent correct and therefore it is difficult to put into a formula. Take for example cases of premeditated murder. The paranoid can premeditate murder and it could be delusional so that is not a safe category.

Q. I suppose it would be going too far to say that everyone should be examined?—A. Yes, or we could abolish capital punishment.

Hon. Mrs. HODGES: You might have to examine more then.

The WITNESS: Then they are automatically examined, senator, in the penitentiaries.

By Hon. Mr. Farris:

Q. Is the examination not likely to be more carefully made if they are thinking of hanging him?—A. I do not know. No, I think the more deliberate and long term examination is by far the most accurate.

Q. How long a term?—A. For instance, in our psychiatric wards here in the General Hospital and at the Civic Hospital we keep them anywhere from 30 days up to 60 days and sometimes a little longer. This apparently is done not so much to diagnose as to treat, if we can and if they are amenable to that.

By Mr. Cameron:

Q. There is another body which has to determine whether there should be any change in the law as we have been applying it in regard to persons who are supposed to be unfit or fit to stand trial so I am not going to ask you any questions about that. For my own information can you give me a complete and dividing line between psychiatrists and psychologists and alienists? I suppose their respective fields merge into one another?—A. I think the word alienist is a term which has now been completely discarded. I remember when I was in Buffalo there was an alienist whom I knew quite well. Alienists did not have to be psychiatrists at all. The alienist whom I knew best was Dr. Wilson who was my neurological surgeon, my chief in neurological surgery. Dr. Wilson knew a lot about it, and was a skilled witness in court and I think his knowledge was relatively sound. This was back in the period from 1911 to 1913. I do not recall, however, alienists in Canada. I was using the term in a rather conjured up meaning as someone who is professionally interested in the psychiatric aspects of crime. As I told you at the beginning, the average psychiatrist is a treatment man and is not a crime specialist at all. That is an occasional field for him and an uncomfortable one for him.

Q. What is the difference then between a psychologist and a psychiatrist? Are they interchangeable terms?—A. A psychiatrist is preeminently a physician. The psychiatrist in Canada and the United States is always a physician; but on the continent of Europe they do not need to be physicians in some areas. In England, yes, and in Scotland and Ireland; and in France, I think. But in Austria and Switzerland, no; I think they have these psychoanalytic technicians who are not doctors at all. But first of all, a psychiatrist in this country is a doctor and he has all the training of a doctor in all types of diseases, surgery, and so forth; then he specializes in psychiatry, studying not only mental disease but ordinary nervous conditions—to use a lay term—and they are by far the most numerous.

In my practice I would say that 90 per cent of my patients are not psychotic and never will be. They are people who are distressed emotionally, but entirely in control, and they are potentially curable.

Now the psychologist's functions are not in treatments at all. They are in relation to assistance in diagnosis by means of special tests, and they have developed very scientific tests. My hat is off to the modern day psychologist.

Q. I presumed you practised psychology and from there you went on to practise psychiatric treatment. The terms seemed a bit confusing. I presumed that a psychiatrist would use aptitude tests, or whatever tests there might happen to be.—A. Aptitude tests are the function of the psychologist.

Hon. Mrs. HODGES: They are used in connection with your psychiatric treatment. You use these psychological tests.

Hon. Mr. GARSON: They are used for psychiatric treatment or diagnosis, are they not?

The WITNESS: Both. These thematic apperception tests often give us a clear lead as to what the guilt factors are so that we can approach them; but we still approach them in a roundabout direction. You never deal with a psychotic person by pointing your finger at him and saying: "Did you do that?" You have to do it in a very subtle, roundabout way. But you do get much information by means of the thematic apperception test.

Hon. Mr. FARRIS: Are all these mental conditions representative of physical conditions?

The WITNESS: Oh, no. There is no known pathology in connection with the great majority of mental conditions. There is no difference between their nerve cells and nerve fibre construction than those of yours or mine, not a bit of difference.

Hon. Mr. GARSON: Where does psychoanalysis come into the picture? Is that the function of the psychologist or the psychiatrist?

The WITNESS: That is the function of the psychiatrist but psychoanalysis involves a very deep study of the mental mechanisms but it is not necessary in the great majority of cases, and it is very time consuming, though quite worth while in very special cases, probably in less than 10 per cent.

Mr. BLAIR: We heard a lot last year of another condition called that of the psychopath. Would the witness care to tell us what the scientific definition of psychopath is in relation to these several conditions spoken of?

The WITNESS: Well, a psychopath is an individual who has what we call a character disorder. He is not psychotic; that is, he has none of the symptoms such as hallucinations or delusions or disorganization of his personality. Disorganization personality and the character disorders do not represent new abnormal behaviour as in psychotics. Rather the abnormal traits have been characterized for years, very often from childhood, though then not in the same degree or manner as is seen in the adult psychopath.

Mr. BLAIR: When you use the word "character" do you mean lack of ethical and moral sense?

The WITNESS: Yes; such character traits that are anti-social.

By Mr. Shaw:

Q. Can a psychiatrist do anything for a psychopath?—A. Not by himself, no; but there is a type of case where, if they are co-operative, the full psychoanalytic technique can sometimes help, but it would take a small army of psychoanalysts to deal with the number of psychopaths that we have.

Q. Would you consider this: that the psychopath who commits a crime and finds himself in the penitentiary—that is where he should be, just as an ordinary prisoner? I ask this for a specific reason because we have had a recent case of a nineteen year old lad. I think he is a potential murderer. He was sentenced to two years, one year each for a different crime, and last year he was convicted. He broke into a girl's bedroom and stabbed her with a pocket-knife, and for no apparent reason. He was sent to a provincial medical institution by the magistrate for observation for thirty days and the verdict was that he was a psychopath and he was sentenced to five years in the penitentiary. I may say that I have known him since he was six years of age and I think you have described him perfectly in describing the psychopath. But that case has troubled me. In due course he will come out of

prison and they cannot keep him in after that term, because he received a definite prison term. But to my way of thinking, unless something can be done for him, he may commit a murder within a week after he gets out. What would be your suggestion?—A. I wonder if you have read about the method used in Denmark?

Q. No.—A. I think the answer is right there. There is no definite sentence. They are sentenced to a special institution and it is an acceptable disciplinary institution, not a rough and tumble one; and they can earn credits and they do. But it is an indeterminate sentence and they know that and know they can earn their way out, not by putting on an act which can be seen through, but by real signs of character restoration.

The PRESIDING CHAIRMAN: Do we have any institutions in Canada such as you have just described?

The WITNESS: I know of none.

By Mr. Shaw:

Q. In this particular case I speak of, the defence lawyer condemned the fact that we had not an institution where a lad of that kind could be placed. Knowing this lad from the time he was five or six years of age I realize the absolute necessity for such a place.—A. We are up against that type of problem all the time. We sometimes have to discharge those types from the psychiatric service because they are not psychotic and you take a chance certifying them because they could easily prove, unless their record was available and understood, to a court that they were normal citizens and then you would be subject to suit. Another point is that mental hospitals do not like to have psychopaths. They can disorganize a place, often they are more difficult to deal with than drug addicts, although quite often the drug addict is also a psychopath.

By Mr. Blair:

Q. I do not think I am unfair in saying that some of the evidence we heard last year pressed upon us the idea that everybody who committed a murder was a psychopath. Would you care to comment on that?—A. No, no. I will let you in on a little bit of a secret. I have seen murderers and when I heard their whole story I have said to myself "If I were in the same situation what would I have done".

Hon. Mrs. HODGES: Better be careful, doctor, you are making a confession.

By Mr. Blair:

Q. That is not the result of being a psychopath?—A. No. What I would regard as pretty nearly a normal reaction even though it is not acceptable.

Q. I think that the members of the committee will recall the kind of testimony I have in mind. I have looked it over. I do not think that I am being unfair in suggesting that some people came close to saying that everybody who commits a murder is a psychopath.

Hon. Mrs. HODGES: That is right.

By Mr. Blair:

Q. And I think the committee would value your opinion on that.—A. I do not think that very many psychiatrists would say that, because the term psychopath is not too accurate a one and is a pretty broad definition which still does not include the nature of the act. After all, a great many murderers, are first time criminals; that is a disturbing fact. A great many of those seen by me, are first time criminals, in which situations have come up that these individuals just do not seem able to handle in any other way at the moment, but this is not necessary on the basis of a character deficiency.

Q. Doctor, we heard some evidence last year, particularly from the police, which attempted to distinguish the crime of passion, as it were, from the premeditated crime.—A. The crime of passion would not necessarily arise from a disordered mental state, it could arise from a situation like my own.

Q. I would just like to have your comment which would indicate for the record whether people who commit murder are all in a disordered mental condition, whatever the technical description is?—A. No. I would subscribe to that view, that they are not all; no. I think probably most of my colleagues also have that view.

Q. Perhaps you would be able to say that among some murderers at least the capacity exists to appreciate the death sentence and to be motivated by it?—A. Yes.

The PRESIDING CHAIRMAN: Putting it conversely to Mr. Blair, anybody who is in his right mind could commit a murder.

The WITNESS: Yes, I think it is possible.

By Mr. Montgomery:

Q. Following that, do you think that that individual should be hanged if he is a first time offence committer? Circumstances have caused him to do this and should he be taken entirely out of society or is there a possibility of that man reforming and being helped into being made a good citizen?—A. In the majority of the cases that I have seen I would think that they could well be helped and reformed as you call it.

By Hon. Mr. Farris:

Q. Do you mean turned loose on society again?—A. Not right away. After all there must be some penalties. I am old fashioned enough for that. There is another aspect to this question of penalties. Some people suffer more from guilt than they do from the penalty. I have been confronted with that, of dreadful guilt. One woman that drowned her child was psychotic for days after but she recovered and in the mix-up of disposal she was sent back to us at the psychiatric hospital. Then we got word that she had to go back to jail and then to a designated provincial hospital. She was so well by this time—I was 25 years younger—that I felt terribly badly about this. I evidently showed it, because she said to me, “You don’t need to feel badly about this at all, Doctor, because it will help me to wipe out what I did. I should not have done that, even if I was not in my right senses.” That taught me something: that people can have guilt so badly that they want some means of squaring the account. So, from that point of view at least, I am quite in favour of penalties. We made a mistake. If the woman had been let loose I think she might have turned psychotic afterwards, because of the profoundness of her guilt; but, being allowed to work it off in this way, she felt easy.

Hon. Mrs. HODGES: Did she recover finally?

The WITNESS: I am sorry; I do not know that.

Mr. BLAIR: Doctor, do you think that by and large people are apt to be more deterred from the commission of a murder by the threat of the death penalty than by the threat of a sentence of imprisonment?

The WITNESS: No, I have a feeling that the result would not be much different. I doubt too that the incidence of murder would be much different, except for the acquisitive type of murder, the gunman type.

Hon. Mr. FARRIS: Your experience would hardly qualify you as an expert on that?

The WITNESS: No.

The PRESIDING CHAIRMAN: Are there any further questions? Doctor, I want to express to you on behalf of this committee our sincere appreciation for your attendance here today and for the evidence you have given, which will certainly be valuable in our deliberations. Thank you very much.

